

Tax News

Fourth quarter 1999

Collection of QST by the SAAQ on Retail Sales of Automotive Vehicles

Effective **February 21, 2000**, persons that, in the course of their commercial activities, make retail sales of automotive vehicles with a net weight of less than 4,000 kilograms are no longer agents of the Ministère du Revenu du Québec for the purposes of the QST applicable to such sales. **Consequently, they are no longer authorized to collect QST from purchasers of such vehicles, and the purchasers are required to remit the QST to the SAAQ.**

If purchasers nevertheless pay QST to the seller, they are required to pay it again to the SAAQ at the time the vehicle is registered, and they cannot claim a QST refund from tax authorities. Instead, they must contact the seller directly in order to recover the QST wrongfully charged. **No refund may be granted by the SAAQ or by the Ministère to persons that paid QST to the seller.**

An information bulletin entitled *Application of the Measure respecting Collection of QST by the SAAQ* (PZ-794-V) was sent by

the Ministère to registrants whose primary commercial activity is the sale of automobiles. You can obtain a copy of the bulletin by contacting the nearest office of the Ministère, or you can consult it on the Web site of the Ministère, in the section "Information Bulletins (PZ)" under the heading "Press Releases." The obligations of QST registrants that are dealers authorized by the SAAQ are described in the bulletin.

QST registrants that are not dealers authorized by the SAAQ may nevertheless be affected by the new collection measure, and they should take note of the information set forth below.

What constitutes the retail sale of an automotive vehicle?

The term "retail sale," as it applies to automotive vehicles, means the sale of such a vehicle (or its supply by way of gift) to a person that purchases (or receives) it for purposes other than re-

supply by way of sale or by way of lease for a period of at least one year. "Retail sale" does not include the short-term or long-term lease of an automotive vehicle.

The following are examples of the retail sale of an automotive vehicle:

- Ms. A purchases an automotive vehicle from a QST registrant for her own use.
- Mr. B purchases an automotive vehicle from a QST registrant for the purpose of giving it to his friend Mr. C.
- A dealer sells an automotive vehicle to a company that purchases it for the purpose of leasing it on a short-term basis.

Which vehicles are affected by this measure?

The vehicles affected by this measure are **automotive vehicles** with a net weight of **less than 4,000 kilograms**. The term "automotive vehicle" means an **automotive vehicle that has four or more wheels** and is

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designed essentially for passenger or freight transport by road. This includes jeeps, vans, buses and trucks, but excludes motorcycles and all-terrain vehicles. The term "net weight" means, in the case of a new vehicle, the weight indicated by the manufacturer at the time the vehicle is shipped and, in the case of a used vehicle, the weight indicated on the last owner's or lessee's registration certificate.

Obligations of QST registrants that are not dealers authorized by the SAAQ

Registrants selling automotive vehicles subject to QST

Although registrants that sell automotive vehicles must no longer collect QST in respect of retail sales of automotive vehicles with a net weight of less than 4,000 kilograms, they are required to calculate the amount of QST payable by purchasers to the SAAQ on such sales. They must also provide purchasers with a document (for example, the sales contract) clearly indicating the amount of QST payable (that is, the amount to be collected by the SAAQ), as well as the selling price, the amount of GST collected, the trade-in value (if any), and the delivery date. It should be noted that the value used to calculate QST is the vehicle's selling price or its estimated value, whichever is higher.

Reminder concerning the estimated value rule

Whenever a used road vehicle that is required to be registered under the Highway Safety Code is sold, QST must be calculated on the higher of the following amounts: the vehicle's selling price or its estimated value (to which GST is added, where applicable). The estimated value of a used road vehicle is its average wholesale price, minus \$500. To determine the average wholesale price, dealers must consult the *Guide d'évaluation Hebdo (Automobiles et Camions légers)*, published by *Hebdo Mag inc.* (that is, the edition that was the most recent on the first day of the

calendar month during which the transaction took place). When a used road vehicle is sold, the SAAQ verifies that the QST was calculated correctly.

Example 1

Chicken Delight is a restaurant that offers home delivery and owns several automobiles weighing less than 4,000 kilograms, which are used primarily for the restaurant's commercial activities. The owner, Bill Whittaker, decides to sell one of the vehicles on March 3, 2000. He must collect GST on the selling price, but not QST. However, he must calculate the QST payable and clearly indicate this amount to the purchaser on the document recording the transaction. The SAAQ will collect the QST at the time the vehicle is registered.

Example 2

Miriam Benson is registered for the QST and owns an automobile weighing less than 4,000 kilograms, which she uses in a proportion of more than 90% for her commercial activities. On April 4, 2000, she sells the vehicle to another individual. She must collect GST on the selling price, but not QST. However, she must calculate the QST payable and clearly indicate this amount to the purchaser on the document recording the transaction. The SAAQ will collect the QST at the time the vehicle is registered.

Registrants selling automotive vehicles not subject to QST

In the case of automotive vehicles not subject to QST, the usual rules continue to apply. Registrants are not required to calculate QST or to indicate the amount of QST payable at the time of sale of a vehicle. However, under the rules that were already in force before the introduction of the new collection measure, the SAAQ collects the QST at the time the vehicle is registered.

Example

A municipality sells an automotive vehicle weighing less than 4,000 kilograms to an individual. As the vehicle was used for exempt activities, its sale is exempt. However, under the rules that were already in force before the introduction of the new collection measure, the SAAQ will collect the QST at the time the vehicle is registered.

Registrants that lease automotive vehicles

Registrants that lease automotive vehicles (whether on a long-term or short-term basis) must continue to collect QST at the time a vehicle is leased. In the case of vehicles leased on a long-term basis, they must also collect QST when the lessee exercises an option to purchase the vehicle.

Date of application

These changes to the QST system apply in respect of the retail sale of an automotive vehicle that has a net weight of less than 4,000 kilograms and in respect of which the total amount of the consideration becomes payable after February 20, 2000, and is not paid by that date. These changes also apply in respect of such a sale where only part of the consideration becomes payable after February 20, 2000, and is not paid by that date, but solely in respect of the part of the consideration payable after that date.

Application of the GST

The GST system is not affected by the new measure applicable to the QST system. Consequently, the usual rules continue to apply.

In Brief

Acquisition of Y2K-compliant computer software and hardware

Extension of the period of application of the tax-relief measure

The period of application of the tax-relief measure aimed at small and medium-sized businesses that replaced their computer software and hardware with Y2K-compliant equipment was extended to October 31, 1999.

Under the measure, a taxpayer or partnership could claim accelerated capital cost allowance of up to \$50,000 with respect to the purchase price of such computer equipment. Please note, however, that property already giving entitlement to the accelerated capital cost allowance of 100%, regardless of the half-year rule and put-in-use rules, is not covered by this measure.

Indexation of support payments

On January 1, 2000, support payments granted under a judgment were indexed by 1.6%, in accordance with the rate determined by the Régie des rentes du Québec.

Application of new fiscal measures under the QST system

The previous issue of *Tax News* contained an article describing new GST/HST measures, announced in a Notice of Ways and Means Motion (see page 11 of the issue for the second and third quarters of 1999); the article ended by saying that the measures applicable under the QST system would be specified in this issue of *Tax News*.

Please note therefore that all of the GST/HST measures announced in that article also apply under the QST system.

Expenses Related to the Use or Maintenance of Recreational Facilities



If you operate a business and you incur amounts for the use or maintenance of recreational facilities, you should be aware that such expenses are deductible only if they are incurred in the ordinary course of operating your

business. This means that if you make available to all of your employees in-house recreational or fitness facilities belonging to you, you are not entitled to claim a deduction in respect of expenses related to the use or maintenance of those facilities (that is, expenses incurred by you for membership dues, initiation fees, club fees, etc.). The same rule also applies to such expenses when they are incurred in respect of recreational facilities not belonging to you, such as a ski centre, a water park, or a golf club (the golf course itself and other amenities provided by the club, including swimming pools, tennis courts or fitness centres). Although your employees may derive a benefit from such expenses, this benefit

does not, as a rule, constitute a taxable benefit for employees if it is in the employer's interest that they become members of such a facility. In any event, as an employer, you are not entitled to claim a deduction in respect of such expenses, whether or not they constitute a taxable benefit for your employees.





Changes Announced by the Ministère des Finances

The changes described in this article were announced by the Ministère des Finances du Québec in information bulletins 99-3 (published on September 30, 1999), 99-4 (published on November 5, 1999), and 99-5 (published on November 26, 1999). The following four changes to the tax system are outlined in bulletin 99-3: an amendment to the determination of the amount of the premium payable under the Québec prescription drug insurance plan; a reduction in the rate of the additional tax on accumulated income payments under a registered education savings plan (RESP); an easing of the Québec Business Investment Companies Regulation; and the postponement of the date on which the responsibilities of the Société de développement des entreprises culturelles (SODEC) are to be transferred to the Bureau de développement de la nouvelle économie (BDNE). In bulletin 99-4, the Ministère des Finances announced an increase in the tobacco tax. Finally, in bulletin 99-05, the Ministère announced an easing in the eligibility requirements for the refundable tax credit respecting home-support services for seniors, and other changes to be made in certain areas of Québec tax legislation, including, in particular, legislation respecting the knowledge-based economy.

Measures respecting individuals

Determination of the premium payable under the Québec prescription drug insurance plan

In keeping with the principle that the premium payable to fund the Québec prescription drug insurance plan must reflect each person's ability to pay, adjustments have been made to the amounts of the deductions used in the calculation of the premium payable for 1999 by persons whose prescription drug insurance coverage is provided by the Régie de l'assurance-maladie du Québec.

Persons whose family income is equal to or less than the following amounts are not required to pay a premium:

one adult, no children	\$10,860
one adult, one child	\$17,600
one adult, two or more children	\$20,200
two adults, no children	\$17,600
two adults, one child	\$20,200
two adults, two or more children	\$22,600

Reduction in the rate of the additional tax on accumulated income payments under a registered education savings plan (RESP)

Since 1998, the subscriber under an RESP has been allowed to withdraw the accumulated investment income from the plan under certain conditions. In such a case, the subscriber must include the withdrawals in the calculation of his or her income, and is subject to an additional tax, which may be reduced or eliminated if a deductible premium is paid to a registered retirement savings plan of which the subscriber or his or her spouse is the annuitant. The rate of the additional tax has been set at 8%, retroactive to the 1998 taxation year.

Tax credit respecting home-support services for seniors

In order to be eligible for the tax credit respecting home-support services for seniors, persons aged 70 or older no longer need to be designated by a CLSC as persons losing their self-sufficiency. For further information, see on page 8 the article entitled "A New Tax Credit for Persons 70 Years or Older."

Other measures respecting personal income tax

- Individuals are now exempt from the various penalties and fines imposed on persons that fail to comply with their obligations as an employer when paying salaries or wages by means of the service employment paycheque,

provided the information sent to the administrator of the service employment paycheque for the purposes of processing the payment is accurate. This change applies to any event that occurs after December 31, 1999, and respecting which a penalty or fine is imposed.

- To ensure that all individuals whose total income for a given year consists of last-resort financial assistance have no income tax payable on this income, a person who begins to reside in Canada during the year is granted remission of the income tax, penalties and interest that would otherwise be payable for the year under Part I of the Taxation Act.
- The definition of "qualifying trust" has been amended, in accordance with recent changes to federal legislation, so as to enable an annuitant of a spousal RRSP to reduce his or her income tax payable when the trust governed by the RRSP purchases a qualifying share in the Fonds de solidarité des travailleurs du Québec or the Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi.
- An individual may now deduct in the calculation of his or her income for a taxation year amounts that have been designated, for that year, as a repayment of an eligible amount received under the Home Buyers' Plan, provided the amount was included in the calculation of his or her income as a payment under an RRSP for the taxation year in which it was received.

Measures respecting businesses

- The Energy Diversification Research Laboratory Varennes and the Defence Research Establishment Valcartier are now recognized as eligible public research centres.
- The floor space of the Québec City information technologies development centre (ITDC) has been increased, and a second building in the Hull area has been designated as an ITDC.

- The remuneration attributable to a second subcontractor is now considered to be a labour expenditure eligible for the refundable tax credits for the production of sound recordings and for musical productions, where the second subcontractor is an artist subject to the Act respecting the professional status and conditions of engagement of performing, recording and film artists, and has rendered services in Québec as part of the production of an eligible sound recording or performance.
- One of the requirements respecting the Québec stock savings plan (QSSP) was that the shares of a qualified corporation had to be listed on the Montréal Stock Exchange. This requirement has been changed: the shares of a qualified corporation must now be listed on a stock exchange in Canada.
- Investissement-Québec has been granted discretionary power to agree to the merger of a Québec business investment company (QBIC) with a qualified corporation before the expiry of the 24-month period during which the QBIC must hold its investment.
- The Québec Business Investment Companies Regulation is to be amended in order to increase the financing of corporations that carry out research and development in the field of biotechnology, whose principal assets are often intangible and whose financing must be obtained through investments of venture capital. Thus, where more than 50% of the activities of a corporation consist in operating a business in the biotechnology sector at the time an investment from a QBIC is received, the corporation is considered to be in a sector of activity eligible for the QBIC program.
- A co-operative constituted under the recent federal legislation on co-operatives is now eligible for a co-operative investment plan (CIP) if its central management is in Québec, or if more than half of the salaries and wages paid to its employees, during

its fiscal period ended in the calendar year preceding the year in which the preferred units were issued under the CIP, were paid to employees of an establishment located in Québec.

- Since January 1, 1999, the interest rate applicable to Québec savings bonds, specifically to bonds issued since June 1, 1997, has been determined by a ministerial order that is not published in the *Gazette officielle du Québec*. The interest rate applicable to refunds owing by the Ministère du Revenu du Québec now corresponds, for each quarter of a calendar year, to the interest rate in effect on the first day of the third month of the quarter preceding the most recent issue of Québec savings bonds.
- The transfer to the Bureau de développement de la nouvelle économie (BDNE) of the responsibilities associated with the issuing of certificates respecting multimedia titles eligible for the general component of the tax credit, and the certificates respecting the corporations eligible for the new component of the tax credit, has been postponed (to January 1, 2000). The same is true of the loan guarantees, provided by the BDNE, that furnish temporary financing for this tax credit, as well as other tax credits related to the knowledge-based economy.

- The rate of the specific tax on leaf tobacco was raised from 0.83 cents to 1.08 cents per gram.
- The rate of the specific tax on tobacco other than cigarettes, loose tobacco, leaf tobacco and cigars was raised from 4.54 cents to 5.37 cents per gram.
- The rate applicable to tobacco sticks was raised from 2.95 cents to 3.49 cents per stick where the quantity of tobacco contained in the stick would result in the tax payable amounting to less than 3.49 cents per stick sold.

Persons who sell tobacco products on which the tobacco tax was collected or paid in advance were required to take an inventory of all the products they had in stock at midnight on November 5, 1999. They were also required to remit, before December 11, 1999, the tax applicable at the new rates (less the portion already paid), together with the appropriate form (TAZ-7.12-V, TAZ-7.12.A-V, TAZ-7.12.E-V or TAZ-7.12.EA-V).

Increase in the tobacco tax

Effective as of midnight, November 5, 1999, the rates of the Québec tobacco tax were increased as follows:

- The rate of the specific tax of 4 cents per cigarette was raised to 4.3 cents. This increase also applies to cigars with a retail price that does not exceed 15 cents per unit. However, the rate of the ad valorem tax (60% of the retail price of cigars with a retail price exceeding 15 cents per unit) has not changed.
- The rate of the specific tax on loose tobacco was raised from 1.9 cents to 2.15 cents per gram.



Information for Employers

Contributions to the Québec Pension Plan (QPP)

Contribution rate

Effective January 1, 2000, the rate of contribution to the Québec Pension Plan increased from 7% to 7.8% (3.9% for employers and 3.9% for employees). The source deduction tables incorporating the new rate are contained in the publication TP-1015.TR-V.

Pensionable earnings

The term "pensionable earnings" refers to the gross remuneration paid to an employee, before any withholdings (such as union dues or contributions to a registered pension plan) are taken into account. In the case of a market maker, or an employee who receives tips directly or indirectly or to whom tips have been allocated, pensionable earnings are the gross remuneration deemed to have been paid, before withholdings.

Pensionable earnings include wages, commissions, salaries, tips that are reported or allocated, overtime pay, taxable benefits, out-of-Canada living allowances, etc.

Data for 2000

Maximum pensionable earnings	\$37,600
Basic exemption	\$3,500
Maximum contributory earnings	\$34,100
Maximum employee contribution	\$1,329.90
Maximum employer contribution	\$1,329.90
Maximum contribution for a self-employed person	\$2,659.80

Taxable benefits granted to employees

New publication

If you are wondering whether a benefit granted to one of your employees should be included in the employee's income, or whether it should be indicated on the RL-1 slip, consult the brochure *Taxable Benefits* (IN-253-V). This new publication of the Ministère contains information on the most common taxable benefits, such as group insurance premiums paid by the employer, allowances respecting the use of a motor vehicle, and allowances for meals and accommodation.



Interest-free or low-interest debts

Individuals who, because of their employment, contract a debt without interest or at an interest rate lower than the prescribed rate are considered to have received a taxable benefit. If any of your employees contracted such a debt in 1999, refer to the annual interest rates below in order to calculate the value of the benefit.

1st quarter	5%
2nd quarter	5%
3rd quarter	5%
4th quarter	5%

Improvements to the Simplified Tax System

On June 30, 1999, Québec's Minister of Finance announced changes to the rules governing the calculation of income for tax purposes. You may be affected by the changes if

- you, your spouse or a dependant has a severe and prolonged mental or physical impairment;
- you transferred an amount to a registered pension plan (RPP), a registered retirement savings plan (RRSP), a registered retirement income fund (RRIF) or an annuity;
- you reimbursed benefits received under federal social programs (employment insurance benefits, the old age security pension or net federal supplements); or
- you reimbursed amounts overpaid to you (for example, wage loss insurance benefits). The amounts in question must not have been income security benefits reimbursed to the government, or salary, wages or wage loss insurance benefits reimbursed to your current or former employer.

These changes also apply with respect to the 1998 income tax return. If you filed a general income tax return for that year, the Ministère du Revenu will already have made the necessary adjustments (last fall). If, however, you filed a simplified return for 1998, complete and file form TP-1.R.S-V, *Request for an Adjustment to a Simplified Income Tax Return Filed for 1998*, to have the Ministère amend your 1998 return. The situations described in the first paragraph are those that occur most frequently; form TP-1.R.S-V also lists other situations, one of which may apply to you.



Internet Filing Is Now a Reality!

Beginning soon, the Ministère du Revenu du Québec will be offering a new filing option: individuals and certified tax preparers alike will be able to file the 1999 personal income tax return via the Internet. This new option will be available in addition to the electronic filing service currently in place.

EFILE

Electronic filing of personal income tax returns (EFILE) has been available since the 1994 taxation year. However, as this mode of transmission requires access to a value-added network (VAN), or communications network, its use is restricted to certified tax preparers. Interested preparers may still register for EFILE, but now have the additional option of transmitting tax returns via the Internet.

Internet filing from your own PC

For the first time, individuals will also have access to direct electronic filing (that is, they will not have to use the services of a tax preparer or transmitter). Taxpayers who filed their 1998 return using tax-preparation software will be issued an access code allowing them to use the Internet to transmit their 1999 personal income tax return themselves.

And the advantages?

Electronic filing affords several advantages, including reduced processing time and faster issue of refunds (where applicable), regardless of whether returns are transmitted via the Internet or

a VAN. Savings are also possible on paper, printing, photocopying, mailing, storing, labour and, for tax preparers filing via the Internet, VAN transmission costs.

Last year, the Ministère processed almost 600,000 income tax returns transmitted electronically by tax preparers. Constantly on the lookout for ways to incorporate the latest developments in telecommunications technology, the Ministère is now responding to user expectations by providing Internet filing, the new on-line service option.

Further information concerning the transmission of Québec income tax returns via the Internet is available on the Internet site of the Ministère.



Demutualization of Mutual Life Insurance Corporations

Demutualization is a process whereby mutual life insurance corporations convert to stock corporations. In 1999, five mutual corporations announced their intention to pursue demutualization: Clarica Life Insurance Company (formerly The Mutual Life Assurance Company of Canada); Manulife Financial (formerly The Manufacturers Life Insurance Company); Sun Life Assurance Company of Canada; The Canada Life Assurance Company; and Industrial-Alliance Life Insurance Company.

Policyholders can choose to receive demutualization benefits in the form of shares or dividends distributed to them at the time of the corporation's conversion. The amount received in either case is taxable; however, the time when it must be reported depends on the nature of the amount.

In the case of shares, policyholders are required to report a taxable capital gain in the taxation year in which they sell their shares.

Please note that the adjusted cost base of the shares is deemed to be nil.

Policyholders who choose to receive dividends **are required to report, in their 1999 income tax return (or 2000 income tax return,** as the case may be), the taxable amount of dividends from taxable Canadian corporations indicated on the information slip issued by the insurance company in early 2000 (or

in early 2001), as they would for any other dividend income received. The taxable amount gives entitlement to a dividend tax credit.

Demutualization is a process whereby mutual life insurance corporations convert to stock corporations.



A New Tax Credit for Persons 70 Years or Older



A new refundable tax credit, namely, the credit respecting home-support services for seniors, took effect on January 1, 2000. Thus,

persons 70 years or older may now claim a credit of up to \$2,760 per year respecting certain expenses incurred for eligible home-support services. Seniors do not have to wait until they complete their 2000 income tax return in order to claim the credit; rather, they receive a 25% reduction in the cost of eligible services, each time the services are paid for.

Services that give entitlement to the credit

The following services are considered eligible for the purposes of the credit.

Services related to daily activities

This refers to daily services required with respect to dressing, personal hygiene, mobility in the home, and eating.

Meal-preparation services

The cost of preparing food, but not the cost of the food itself, can be claimed.

Supervision and support services

Civic-support services

This refers to services required by seniors to meet the everyday demands of life in society. Examples of such services include accompaniment on outings, assistance in filling out forms, and budget management.

Services related to routine household tasks

These services are as follows:

- vacuuming, dusting, cleaning and similar upkeep of living areas;
- maintenance of appliances;
- care of clothing;
- shopping for everyday necessities and running errands (the cost of purchases is not considered part of the service);
- the carrying out of minor outdoor jobs (the cost of any equipment or other materials used is not considered part of the service), such as
 - grass cutting and lawn maintenance,
 - hedge trimming and plant-bed maintenance,
 - cleaning the outside of the dwelling, the windows, and the eaves-troughs,
 - snow removal.

How to obtain the credit

Seniors wishing to obtain the credit must first authorize the Services de paie Desjardins, which manages the SEP processing centre (that is, the centre responsible for processing service employment paycheques), to withdraw from their bank account the amounts necessary to pay for the services concerned and to cover administration charges.

Each time seniors request that the SEP processing centre debit their account in order to pay for eligible services received, the cost of the services is reduced by an amount equal to the tax credit (25% of the amount paid). The ceiling on expenses giving entitlement to the credit is \$12,000 per year.

Is the service provider an employee or a business?

On each payment order (*Payment for Home Services form*) remitted to the SEP processing centre, seniors must indicate whether the services were provided by an employee or by a business (firm or self-employed person). The service provider is considered an employee where there is an element of subordination in the relationship between him or her and the recipient of the services. In such a case, the recipient must meet the usual obligations of an employer.

Further information

For further information on the credit, refer to the brochure *The Tax Credit respecting Home-Support Services for Seniors*, which is available at the offices of the Ministère du Revenu du Québec and Communication-Québec, as well as at any caisse populaire Desjardins.





Funeral Property and Services Supplied by a Charity

Interpretation bulletin TVQ. 138.1-1 states how the Act respecting the Québec sales tax (hereinafter called the Act) is to be applied with regard to funeral property and services sold or leased by a charity. This article provides a summary of the bulletin.

Application of the Act

The term "charity" refers to registered charities within the meaning assigned by section 1 of the Taxation Act or registered Canadian amateur athletic associations within the meaning of the Act, but does not include public institutions.

The term "public institution" means a registered charity (within the meaning of section 1 of the Taxation Act) that is a school authority, a public college, a university, a hospital authority or a local authority that is a municipality pursuant to the Act.

Reminder: Unless otherwise exempted under the Act, supplies of property and services made by a charity are tax-exempt.

Type of property or service

Some charities own and operate cemeteries that have mausoleums or columbariums intended to receive the remains of the deceased. The most frequent transactions made by such charities are the following:

- long-term lease (usually for 99 years) of plots, including care and maintenance for the term of the lease and sometimes the foundation (the concrete base on which the monument is placed). The lease may also include inhumation and the monument;
- short-term lease (usually for 10 years) of community plots, including care and maintenance for the term of the lease. The lease may also include inhumation;
- long-term lease (99 years) of mausoleum crypts¹ and columbarium niches.² The lease may also include a ceramic picture of the deceased person;

- short-term lease (10 years) of community niches in a columbarium;
- inhumation;
- exhumation;
- cremation;
- manufacture and installation of foundations;
- sale of monuments;
- sale of votive lights;
- sale of ceramic pictures of the deceased;
- long-term lease of a lot to a funeral home.

A cemetery plot or space in a mausoleum may be sold or leased through a deed of conveyance. Under such a deed, interment rights are conveyed at a flat price for a period of 99 years on a plot or space in a mausoleum; this price includes maintenance of the premises for the duration of the deed. For plots on which a foundation has already been laid, the foundation is always included.

Movable or immovable?

The Civil Code of Québec does not allow the transfer of a conveyance on an immovable one owns. The transfer of a conveyance is a common law concept which does not exist in civil law. Since such a transfer is similar to the long-term lease of an immovable, for the purposes of the Act, the Ministère refers to the rules for the supply of immovables by way of long-term lease.

The lease of a mausoleum crypt or columbarium niche is considered to be the supply of an immovable.

The lease of a foundation intended for a funeral monument constitutes the lease of an immovable, since the foundation, when joined to a monument, is considered to be joined to an immovable, without losing its individuality (article 903 of the Civil Code of Québec). Such a lease does not constitute the lease of a service since the recipient wishes to obtain an immovable. In addition, it is considered the lease of an immovable because a foundation cannot be seen as separate from the cemetery plot on which it is placed.

Taxable or exempt sale or lease?

The long- or short-term lease of an immovable by a charity is exempt under section 138.1 of the Act. The exemption extends to maintenance services included in the price of a lease for a plot purchased at a flat price.

Inhumation, exhumation, cremation, annual maintenance and perpetual maintenance services supplied by a charity are exempt under section 138.1 of the Act.

However, certain property supplied by a charity and included in the price of the plot or niche (such as a funeral monument or a picture of the deceased) is considered to constitute a separate supply of property (i.e., from that of the plot or niche). Such property is therefore subject to any applicable QST provisions determined by the Act.

The sale or lease of a funeral monument by a charity may be taxable or exempt depending on whether the monument is fixed to the foundation on which it is placed. If it is fixed to the foundation, the monument becomes an immovable (article 903 of the Civil Code of Québec) and its supply constitutes the lease of an immovable, which is exempt under the first paragraph of section 138.1 of the Act. However, if the monument is only placed on the foundation, its lease constitutes a taxable supply of corporeal movable property (unless the supply is exempt under another legislative provision), because the charity acquires, manufactures or produces it for the purpose of resupply; such a supply is excluded from the exemption of supplies, referred to in paragraph 4 of section 138.1 of the Act.

The sale of votive lights and ceramic pictures of the deceased by a charity constitutes a taxable supply (unless the supply is exempt under another legislative provision), because this property is corporeal movable property acquired, manufactured or produced for resale purposes.

1. A crypt is a type of flat-bottomed wall recess designed to hold one or more coffins.

2. A niche is a wall recess designed to hold a cinerary urn.

Errata

- In the article entitled "Recent and Forthcoming Changes in Québec's Tax System," published on page 3 of the previous issue of *Tax News*, note 1 should have read as follows: "The application of the duty is limited to new tires with a rim diameter not exceeding 24.5 inches (62.23 centimetres) and an overall diameter of no more than 48.5 inches (123.19 centimetres)."
- Volunteer fire organizations wishing to be determined to be municipalities should disregard the address indicated in the article entitled "Volunteer Fire Organizations," published on page 10 of the previous issue of *Tax News*. They should write instead to the following address:

Director, Direction des lois
sur les taxes, le recouvrement
et l'administration
Direction générale de la législation
et des enquêtes
Ministère du Revenu du Québec
3800, rue de Marly
Sainte-Foy (Québec) G1Y 2B2

Non-Registration of Small Suppliers: Exceptions to the Rule

As a rule, small suppliers are not required to register for the GST or the QST. How is **small supplier** status determined? In general, a person is considered to be a small supplier throughout a particular calendar quarter and the month immediately following that quarter if the person's total taxable and zero-rated sales¹ made worldwide (including sales made by the person's associates) do not exceed \$30,000 (\$50,000 for public service bodies) during the four preceding calendar quarters.

Nevertheless, certain persons considered small suppliers under the QST system are required to register and to collect the tax in respect of their commercial activities. This is the case for persons that

- operate a taxi business (small suppliers operating such a business are required to register for the GST also);
- sell alcoholic beverages (unless they hold a "reunion permit" issued in accordance with the Act respecting liquor permits);
- sell fuel;
- sell or lease new tires;
- sell new or used road vehicles, or lease such vehicles on a long-term basis.

Small suppliers carrying on such commercial activities are required to register for the QST and to collect the tax, but **solely** in respect of the above-mentioned activities. Furthermore, small suppliers that make retail sales of tobacco and persons that sell tobacco but are not engaged in commercial activities are required to register for the QST in respect of such sales. However, they are not required to collect QST on such sales, as the sale of tobacco constitutes a zero-rated supply.

1. The term "sale" is used in preference to "supply," as this is the most common type of supply.

Examples

1. The company Tires 'R' Us, Inc., sells new and used tires; it also installs and repairs tires, and sells wheels for road vehicles. The company is registered for the QST, since it sells new tires; however, it is not registered for the GST, since small suppliers selling new tires are required to register in respect of the QST only. The company sells four new tires and four wheels to a consumer. The invoice contains the following information:

Four new tires at \$100 apiece	\$400.00
Four wheels at \$40 apiece	\$160.00
Specific duty on new tires	\$12.00
QST (\$400 + \$12) x 7.5%	<u>\$30.90</u>
TOTAL	\$602.90

It should be noted that the company is registered for the QST solely in respect of the sale of new tires, and is therefore required to collect tax solely on sales of new tires, and not on the wheels it sells.

2. Louise is a small supplier operating a convenience store. She is required to register for the QST in respect of sales of alcoholic beverages. She sells certain items, including alcoholic beverages, to a customer. The invoice contains the following information:

A bag of potato chips*	\$2.99
A six-pack of beer	\$7.99
QST (\$7.99 x 7.5%)	<u>\$0.60</u>
TOTAL	\$11.58

* QST is not collected on the bag of potato chips, as Louise is not registered in respect of the sale of such products.



Mohawks of Kahnawake: Interim Measures respecting Exemption from the QST

Further to the agreement respecting consumer goods and services that was signed on March 30, 1999, by the Québec government and the Mohawk Council of Kahnawake, interim measures providing for exemption from the QST have been in effect since December 15, 1999.

Thus, Mohawks who ordinarily reside in Kahnawake and who meet the conditions set forth in this article may, in certain municipalities (see the list below), acquire consumer goods for their personal use or consumption without paying QST on the transaction.

The interim measures do not release merchants from their obligation to collect GST on the goods and services they sell. Nor do the measures affect the usual rule governing goods delivered to an Indian reserve (including Kahnawake). Under this rule, goods that are sold to an Indian and delivered to a reserve are not subject to QST or GST. However, merchants must keep proof of delivery indicating that the goods were sold to an Indian and delivered to a reserve.

Exceptions

Most consumer goods sold¹ are covered by the exemption. However, the exemption does not apply to services provided entirely outside the Mohawk Territory of Kahnawake, or to the following consumer goods:

- meals sold in a restaurant or similar establishment (unless the meals are delivered to Kahnawake),
- fuel,
- alcoholic beverages.

Identification required

To be exempted from QST, a Mohawk of Kahnawake must show the merchant two pieces of identification, as specified below:

- (1) his or her *Certificate of Indian Status*, issued by Indian and Northern Affairs Canada (see the sample published on page 2 of the previous is-

sue of *Tax News*). The certificate must identify the person as being registered in Kahnawake; in this case, the first four digits of the registry number, commonly known as the "band number," will be "0700." However in the case of older certificates identifying the person as being registered in "Caughnawaga," the registry number will not begin with "0700" and will be composed of three or four digits only;

AND

- (2) one of the following pieces of identification:
 - his or her Québec driver's licence,
 - his or her Québec health insurance card,
 - his or her Québec birth certificate.

For audit purposes, merchants are required to record on each sales receipt (or other document attesting to the sale) the purchaser's name and the number shown on his or her *Certificate of Indian Status*.

Duration of the interim measures

The interim exemption measures described in this article will remain in effect until the procedures set out in the permanent agreement between the Mohawk Council of Kahnawake and the Québec government are fully implemented.

Further information

If you require further information, you may contact the Ministère du Revenu du Québec at **(450) 928-8219** or, toll-free, at **1 888 273-6050**, Monday to Friday from 8:30 a.m. to 4:30 p.m.

1. The term "sale" covers all types of supplies (including supplies by way of exchange, lease and gift).

Municipalities covered by the interim measures

All persons carrying on commercial activities in any of the following municipalities must apply the interim QST exemption measures.

Roussillon (RCM)

Candiac
Châteauguay
Delson
La Prairie
Léry
Mercier
Saint-Constant
Saint-Isidore
Saint-Mathieu
Saint-Philippe
Sainte-Catherine

Champlain (RCM)

Brossard
Greenfield Park
LeMoyne
Longueuil
Saint-Hubert
Saint-Lambert

Île de Montréal

Anjou
Baie-d'Urfé
Beaconsfield
Côte-Saint-Luc
Dollard-des-Ormeaux
Dorval
Hampstead
Kirkland
L'Île-Bizard
L'Île-Dorval
Lachine
LaSalle
Mont-Royal
Montréal
Montréal-Est
Montréal-Ouest
Montréal-Nord
Outremont
Pierrefonds
Pointe-Claire
Roxboro
Senneville
Sainte-Anne-de-Bellevue
Sainte-Geneviève
Saint-Laurent
Saint-Léonard
Saint-Pierre
Verdun
Westmount

Sales of consumer goods and services made to Mohawks within the Mohawk Territory of Kahnawake continue to be exempt from both QST and GST.



Specific Duty on New Tires

Under a measure that came into effect on October 1, 1999, a specific duty of \$3 must be collected on every new tire sold or leased at retail. The specific duty must also be collected on new tires provided with road vehicles sold at retail or leased on a long-term basis (excluding vehicles leased for the purpose of sublease on a long-term basis). Furthermore, any person (including a small supplier) that sells or leases new tires, or that sells new or used road vehicles or leases such vehicles on a long-term basis, must register for the QST by completing the *Application for Registration* (form LM-1-V).

The specific duty applies to

- all new tires installed on road vehicles purchased or leased at retail in Québec;
- all new tires provided with a road vehicle purchased at retail or leased on a long-term basis (12 months or more) in Québec.

The specific duty applies to all new tires designed for **road vehicles** (excluding recapped, used or remolded tires) with a rim diameter not exceeding 62.23 centimetres (24.5 inches) **and** an overall diameter not exceeding 123.19 centimetres (48.5 inches). New tires supplied with a road vehicle as a spare are subject to the duty, as are solid tires and foam-filled tires. For the purposes

of administering the specific duty, the term "road vehicle" has the meaning assigned by the Highway Safety Code. Therefore, a road vehicle is a registered or unregistered motorized vehicle capable of travelling on a public or private highway. Such vehicles include automobiles, trucks, buses, motorcycles, all-terrain vehicles, recreational vehicles, house-trailers, tent-trailers, garden tractors, ice resurfacers, fork lifts, heavy equipment, farm machinery, logging equipment, golf carts, go-karts and snowblowers. Towed vehicles (trailers, semi-trailers and detachable axles) are also considered road vehicles, despite the fact that they are not motorized.

The specific duty must be paid by the consumer, that is, the retail purchaser of a new tire or a road vehicle equipped with new tires or the long-term lessee of such a vehicle. In addition, persons that purchase new tires for installation on road vehicles intended for short-term lease are considered consumers, and must therefore pay the duty at the time of purchase.

The duty is payable at the time of the retail sale of the tire or the vehicle or, in the case of a lease, at the time the lease contract is signed.

New tires brought into Québec

When new tires purchased outside Québec are brought into Québec for a purpose other than resale, lease or installation on a vehicle intended for sale or long-term lease, the purchaser must remit to the Ministère du Revenu du Québec the specific duty of \$3 per tire. In such a case, the *Special-Purpose Return* (form FP-505-V) must be filed.

However, if the purchaser paid a similar duty in respect of the purchase outside Québec, the specific duty payable in Québec may be reduced by an amount equal to the amount levied outside Québec, unless the purchaser is entitled to a refund of the amount paid outside Québec.



A Smooth Transition to the Year 2000

We are proud to announce that, as the year 2000 rang in, operations continued as usual at the Ministère du Revenu du Québec, thus enabling the Ministère to fulfil its role from the very first days of the new year. To achieve this result, we made extensive adjustments to our computer systems over the past three years and implemented a Y2K transition plan specifically targeting the period from December 17, 1999, through January 5, 2000.

The transition plan was carried out in three distinct phases: a controlled shutdown of operations in 1999; a period of intensive testing at the beginning of 2000; and the resumption of normal operations on January 5. All of these phases were completed without complications, and all deadlines were met. (Emergency measures had nonetheless been prepared in the event of serious problems.)

In all our Y2K preparations, and particularly when we were developing the transition plan, our priority was to ensure uninterrupted service for our clients. Even if an emergency had occurred, services would have been maintained.

With the Y2K challenge having been successfully met, clients of the Ministère du Revenu are assured of the continued provision of the same services they received in 1999.

Clarification of the Definition of “Automotive Vehicle”

Since the introduction of the zero-rating measure respecting automotive vehicles on May 1, 1999, certain dealers who sell **automotive vehicles not covered by the measure**, such as motorcycles, snowmobiles and trailers, have neglected to collect the QST **that they are required to collect** on the sale of such vehicles when the vehicles are purchased solely for resale or for lease for a period of at least one year.

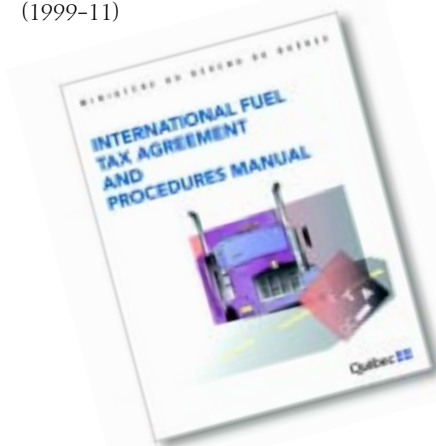
The only automotive vehicles covered by the zero-rating measure are those that have four or more wheels and a net weight of less than 4,000 kilograms, and that are designed essentially for passenger or freight transport by road.

These vehicles must be purchased by a person (registrant or non-registrant) solely for resale or for lease for a period of at least one year. Examples of such vehicles include jeeps, vans, buses, trucks and automobiles.

New Publications

In recent months, the Ministère du Revenu du Québec has made available or updated the following publications:

- **IN-255-V** *Taxable Benefits* (1999-10)
- **IN-522-V** *International Fuel Tax Agreement and Procedures Manual* (1999-11)



The Canada Customs and Revenue Agency has made available or updated the following publications:

- **IN-4081-V** *GST/HST Information for Non-Profit Organizations*
- **IN-4082-V** *GST/HST Information for Charities*

GST/HST Memorandums

- **ME-03-01-9901-V** *Liability for Tax*
- **ME-04-05-03-9801-V** *Exports — Services and Intellectual Property*
- **ME-15-00-9902-V** *Books and Records*
- **ME-15-01-9901-V** *General Requirements for Books and Records*
- **ME-15-02-9901-V** *Computerized Records*
- **ME-17-09-9901-V** *Insurance Agents and Brokers*
- **ME-19-04-01-9901-V** *Commercial Real Property — Sales and Rentals*
- **ME-19-04-02-9901-V** *Commercial Real Property — Deemed Supplies*
- **ME-28-03-9901-V** *Passenger Transportation Services*

Transfer of Funds from an RRSP to an RPP Without Tax Consequences

Annuitants may transfer an amount from a registered retirement savings plan (RRSP) to a registered pension plan (RPP) without having to pay tax on the transfer, if all of the following conditions are met:

- The RRSP is revised or amended before the date on which the first benefit is to be paid, so that all or a portion of the property in the RRSP can be paid into or transferred to the annuitant's RPP.
- The funds in question are transferred directly, that is, with no intermediary between the RRSP issuer and the RPP administrator.
- The terms of the RPP allow for such a transfer.

An amount transferred in this way should not be included in the calculation of the annuitant's income, and no deduction can be claimed in respect of such a transfer.



In Your Interest

GST

Prescribed interest rates are adjusted quarterly to reflect market trends. Penalties and interest related to the GST are compounded daily. Annualized interest rates and penalty rates for the quarterly periods from October 1, 1998, to December 31, 1999, are listed below.

Period	Annualized interest rate* (%)	Penalty rate (%)
1998		
Oct. 1 - Dec. 31	4.7609	6
1999		
Jan. 1 - Mar. 31	4.8667	6
Apr. 1 - June 30	4.8132	6
July 1 - Sept. 30	4.7609	6
Oct. 1 - Dec. 31	4.7609	6

* To calculate interest for the purposes of the GST, find the daily rate by dividing the annualized rate by 365.

Act respecting the Québec sales tax, and other specific statutes

Interest is capitalized daily on amounts due and refunds granted under Québec tax laws. The prescribed interest rate respecting debts owed to the Ministère du Revenu du Québec is set by calculating the simple arithmetic mean of the base rates for bank loans to businesses, as published by the Bank of Canada on the last Wednesday of each month included in the three-month period ending in the second month of the preceding quarter (for example, November 24, 1999, is the last Wednesday of the second month in the quarter preceding the first quarter of 2000). The result is rounded off to the nearest whole number (one-half being rounded down), and increased by 3%.

The interest rate with respect to refunds paid by the Ministère du Revenu is the rate for Québec savings bonds that is in effect on the first day of the third month of the preceding quarter, as published in the *Gazette officielle du Québec*.

The following is a list of interest rates respecting refunds paid by and debts owed to the Ministère, for the quarterly periods from October 1, 1998, to December 31, 1999.

1998		Interest rate (%)
Oct. 1 - Dec. 31	Refunds	4
	Debts	9
1999		
Jan. 1 - Mar. 31	Refunds	4.25
	Debts	10
Apr. 1 - June 30	Refunds	4.25
	Debts	10
July 1 - Sept. 30	Refunds	4.25
	Debts	9
Oct. 1 - Dec. 31	Refunds	4.25
	Debts	9

The **penalty** rates are indicated below:

- **7%** of the amount to be paid or remitted further to the application of a fiscal law, where the amount is no more than seven days late;
- **11%** of the amount to be paid or remitted further to the application of a fiscal law, where the amount is no more than 14 days late;
- **15%** in all other cases.



The Web Site of the Ministère du Revenu du Québec



We invite you to visit the Web site of the Ministère du Revenu du Québec at the following address: www.revenu.gouv.qc.ca. By clicking on the icon marked "Publications," you can access various documents produced by the Ministère, including *Tax News*.



Interpretation Bulletins

Of the 42 interpretation bulletins published by the Ministère du Revenu du Québec from April to September 1999, 22 deal with income tax and 20 deal with consumption taxes. The numbers and subjects of the bulletins are listed below; the letter R in a number indicates that the bulletin has been revised. Interpretation bulletins are sold individually (price varies according to the number of pages) or on a subscription basis, through Les Publications du Québec. For information about subscriptions or the availability of bulletins, call (418) 643-5150 or 1 800 463-2100.

Income tax

ADM. 1/R4 Organizational chart

ADM. 1.3/R4 List of "Interprétation Revenu Québec" bulletins published by the Ministère du Revenu du Québec from April 1, 1998, to March 31, 1999

IMP. 37-1/R9 Value of certain taxable benefits received by restaurant and hotel employees by reason of their office or employment

IMP. 37-5/R7 Value of benefits related to a dwelling located in a prescribed area

IMP. 39.4-1 Travel expenses of councillors of a regional county municipality

IMP. 41.1.1-1/R1 Determination of the value of the taxable benefit related to the operation of an automobile made available to an employee by the employer

IMP. 725-1 Investment income earned by an Indian

IMP. 913-1 Transfer of funds from an RRSP to an RPP

IMP. 1000-1.3/R5 Requirements for facsimiles and computer-printed forms — trust return

IMP. 1136-1/R7 Advance on contract

IMP. 1136-3/R3 Trust account

IMP. 1136-5/R3 Unrealized foreign exchange loss

IMP. 1136-13/R2 Corporation having an interest in a partnership or joint venture

IMP. 1136-14/R2 Operations between a partnership and its members

IMP. 1138-1/R3 Reduction of paid-up capital — eligible investments

IMP. 1141-1/R2 Recognition as a loan corporation

LMR. 27.3-1/R1 Prescription respecting the recovery of fiscal debts

LMR. 28-1/R43 Interest rates

LMR. 94.1-1/R3 Waiver respecting interest, penalties or charges (or cancellation of such amounts)

SPECIAL 123 Improvement of the simplified tax system, and other tax measures

SPECIAL 124 Regulation to amend the Regulation respecting the collection of support

SPECIAL 125 Change regarding the eligibility of private broadcasters for the refundable tax credit respecting Québec film and television productions, and for the tax credit respecting production services

Consumption taxes

ADM. 1/R4 Organizational chart

ADM. 1.5/R4 List of "Interprétation Revenu Québec" bulletins published by the Ministère du Revenu du Québec from April 1, 1998, to March 31, 1999

CAR. 22 Calculation of the tax, or an amount equal to the tax, on a litre of fuel measured at ambient temperature or corrected to the reference temperature of 15°C

LMR. 27.3-1/R1 Prescription respecting the recovery of fiscal debts

LMR. 28-1/R43 Interest rates

LMR. 94.1-1/R3 Waiver respecting interest, penalties or charges (or cancellation of such amounts)

SPECIAL 105 The specific duty on new tires, and other tax measures

SPECIAL 106 Remission regulation respecting certain coin-operated devices

TVQ. 16-1/R1 The government of Canada and Québec consumption taxes

TVQ. 31-1 Combined supply of immovables

TVQ. 138.1-1 Supply by a charity of funeral property and services

TVQ. 176-1/R1 Contracts for the replacement of contact lenses

TVQ. 176-2/R1 Supplies of glasses and contact lenses

TVQ. 177-3 Supply of certain pastry and bakery products or similar products, and meaning of the term "pre-packaged for sale to consumers"

TVQ. 198.1-1 Zero-rated supply of printed books

TVQ. 240-1 Input tax refunds respecting computers

TVQ. 406-1/R2 Compensation respecting printed books

TVQ. 407-2/R1 Liquor permits — "Reunion" permit

TVQ. 407.3-1 Holders of a "Reunion" permit — Registration for the QST and collection of the tax

TVQ. 678.1/R1 The government of Québec and Québec consumption taxes



More offices: to serve you better

The Ministère du Revenu now boasts several offices throughout the greater Montréal area.

You can contact the office nearest you by telephone, by mail or in person in order to obtain information on income tax, consumption taxes or socio-fiscal programs. What's more, every office in the Montréal area (with the exception of the Sorel and Saint-Jean-sur-Richelieu offices) now has audit teams.

Laval

- 705, chemin du Trait-Carré Laval (Québec) H7N 1B3
- 4, Place-Laval, bureau 250 Laval (Québec) H7N 5Y3

Longueuil

- Place-Longueuil
825, rue Saint-Laurent Ouest
Longueuil (Québec) J4K 5K5

Montréal

- Complexe Desjardins
C.P. 3000, succursale Desjardins
Montréal (Québec) H5B 1A4
- Village Olympique
5199, rue Sherbrooke Est
Bureau 4000
Montréal (Québec) HIT 4C2

Saint-Jean-sur-Richelieu

- 855, boul. Industriel
Saint-Jean-sur-Richelieu
(Québec) J3B 7Y7

Sorel

- 101, rue du Roi
Sorel (Québec) J3P 4N1

All of these offices can be reached at (514) 864-6299 ou, sans frais, le 1 888 413-2277.

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This publication is distributed for information purposes only. The articles it contains do not replace the laws, regulations or administrative texts to which they refer. Nor do they supersede proposed amendments to laws or regulations, or constitute a legal interpretation of the Act respecting the Québec sales tax, the Excise Tax Act or any other Québec or federal statute.

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Suggestions, comments and subscription enquiries should be faxed to (418) 646-0167. Your letter should include all pertinent information, as well as a copy of the last page of *Tax News* (on which your address is printed).

If you are a QST or GST registrant, you receive *Tax News* at the address to which all correspondence concerning the administration of the taxes is sent. To make a change to your address, contact the office of the Ministère in your area.

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